

REMARKS/ARGUMENTS

In view of the foregoing amendments and the following remarks, the applicants respectfully submit that the pending claims are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. **If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicants respectfully request that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.**

The applicants will now address each of the issues raised in the outstanding Office Action. Before doing so, however, the undersigned would like to thank Examiner Pham and SPE Lefkowitz for courtesies extended during telephone interviews on October 21 and 28, 2008.

Rejections under 35 U.S.C. § 103

Claims 2-8, 11-17, 20-24, 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,994,710 ("the Knee patent") in view of U.S. Patent No. 4,797,544 ("the Montgomery patent"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claims 6, 8 and 12 have been amended to recite the features of dependent claims 7, 11 and 20,

respectively. Dependent claims 7, 11 and 20 have been canceled.

On October 21, 2008, the undersigned and Examiner Pham held a telephone interview (referred to as "the first telephone interview"). During the first telephone interview, the undersigned reiterated the applicants' position that one skilled in the art would not have combined these patents because the device discussed in the Knee patent is already capable of measuring both translation and rotation of the scanning mouse and therefore one skilled in the art would not have added an additional component to the device of the Knee patent in order to accomplish a function that the unmodified device of the Knee patent can already perform. An agreement was not reached on these claims.

The undersigned then indicated that dependent claims 7 and 11 are also allowable since they further recite that the light emitted from the first light source has a larger angle of incidence with a surface than the light emitted from the second light source. The Examiner took Official Notice that it is well known to have a second light source positioned at a different angle from the first light source (citing U.S. Patent No. 6,657,183). The undersigned argued that even assuming, for the sake of argument, that the Examiner's position is correct, merely showing two light sources with two angles of incidence is insufficient since the independent claims recite that the first light source (which has a larger angle of incidence with the surface than the light emitted from the second light source) is used to capture a plurality of image parts, while the second light source (which has a smaller angle of incidence with the surface

than the light emitted from the first light source) is used to determine position information.

The Examiner said that she would need to reconsider this issue. The undersigned and the Examiner agreed to schedule a follow-up telephone interview including the Examiner's Supervisor.

On October 28, 2008, the undersigned, Examiner Pham, and SPE Sumati Lefkowitz held a telephone interview (referred to as "the second telephone interview"). During the second interview, the undersigned reiterated the foregoing arguments concerning claims 7 and 11. The Examiner and SPE Lefkowitz ultimately indicated that the combined features of claims 6 and 7, and claims 8 and 11, would be allowable over the art of record.

Claims 6 and 8 have been amended to include the features of dependent claims 7 and 11, respectively. Thus, claims 6 and 8 are allowable (at least over the art of record). Apparatus claim 12 has been similarly amended to include the features of dependent claim 20 and is similarly allowable.

Since claims 4, 5, 7, 11 and 20 have been canceled, this ground of rejection is rendered moot with respect to these claims.

Since claims 2, 3 and 26 depend from claim 6, since claim 27 depends from claim 8, and since claims 13-17 and 21-24 depend from claim 12, these claims are similarly allowable over the art of record.

Entry of Amendments

Since the amendments merely either (1) cancel claims, or (2) amend claims to include features from

former dependent claims, these amendments should be entered. That is, the amendments raise no new issues and place this application into condition for allowance (or remove issues for appeal).

Conclusion

In view of the foregoing amendments and remarks, the applicants respectfully submit that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.


Any arguments made in this amendment pertain **only** to the specific aspects of the invention **claimed**. Any claim amendments or cancellations, and any arguments, are made **without prejudice to, or disclaimer of**, the applicants' right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

Since the applicants' remarks, amendments, and/or filings with respect to the Examiner's objections and/or rejections are sufficient to overcome these objections and/or rejections, the applicants' silence as to assertions by the Examiner in the Office Action and/or to certain facts or conclusions that may be implied by objections and/or rejections in the Office Action (such as, for example, whether a reference constitutes prior art, whether references have been properly combined or modified, whether dependent claims are separately patentable, etc.) is not a concession by the applicants that such assertions and/or implications are accurate,

and that all requirements for an objection and/or a rejection have been met. Thus, the applicants reserve the right to analyze and dispute any such assertions and implications in the future.

Respectfully submitted,

October 30, 2008

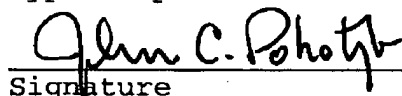

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